

**386.4432 Name used by foreign business trust.**

- (1) If the name of a foreign business trust does not satisfy the requirements of KRS 386.382, the foreign business trust, to obtain or maintain a certificate of authority to transact business in this Commonwealth, may use a fictitious name to transact business in this Commonwealth if its real name is unavailable and it delivers to the Secretary of State for filing a certificate by a trustee that the business trust has adopted the fictitious name.
- (2) Except as authorized by subsections (3) and (4) of this section, the name, including a fictitious name, of a foreign business trust shall be distinguishable from the name of any other business entity upon the records of the Secretary of State.
- (3) A foreign business trust may apply to the Secretary of State for authorization to use in this Commonwealth the name of another business entity, organized or authorized to transact business in this Commonwealth, that is not distinguishable upon the Secretary's records from the name applied for. The Secretary of State shall authorize use of the name applied for if:
  - (a) The business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying business trust; or
  - (b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.
- (4) A foreign business trust may use in this Commonwealth the name, including the fictitious name, of another business entity that is used in this Commonwealth if the business entity is organized or authorized to transact business in this Commonwealth and the foreign business trust:
  - (a) Has merged with the other business entity;
  - (b) Has been formed by reorganization of the business entity; or
  - (c) Has acquired all or substantially all of the assets, including the name, of the other business entity.
- (5) If a foreign business trust authorized to transact business in this Commonwealth changes its name to one that does not satisfy the requirements of this section, it shall not transact business in this Commonwealth under the changed name until it adopts a name satisfying the requirements of this section and obtains an amended certificate of authorization under KRS 386.4428.

**Effective:** June 26, 2007

**History:** Created 2007 Ky. Acts ch. 137, sec. 32, effective June 26, 2007.